



Department of Energy
Washington, DC 20585

DRAFT

Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human
Resources
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to provide Department of Energy views regarding S. 1815, cited as the "Polygraph Protection Act of 1985."

The Act prohibits the use of polygraph tests for hiring, discharging or disciplining employees in the private sector. The prohibitions in the bill do not apply to Federal, State or local governments. The bill also exempts personnel of contractors of the Department of Defense with access to classified information.

The Department of Energy would oppose S. 1815 unless it were amended to exempt Department of Energy contractor employees engaged in work related to the national defense or national security. National security activities of the department include the research, development, testing, and manufacture of all U.S. nuclear weapons; the verification of international arms control agreements; the control of sensitive technology transfers, and the dissemination of classified information. In cooperation with the Department of Navy, DOE also develops nuclear ship-propulsion systems. A large percentage of our work relating to national defense and national security is performed by employees of contractors to the Department of Energy. Because DOE contractor employees are not covered by any of the exemptions in the bill, they would not be subject to any polygraph tests under this legislation. Because of the importance to national defense of the work performed by DOE national security contractors, we believe that it would be most unwise to preclude their use of polygraph tests. To avoid that result, the following amendment is suggested:

Insert the following new subsection on Page 4,
between lines 22 and 23.

"(3) Exemption for Employees of Department of Energy Contractors.

"This Act shall not prohibit the administration in the performance of any work related to the national security, a lie detector test to an employee of a contractor to the Department of Energy. For purposes of this section, contractor includes a contractor or cost reimbursement contractor or any subcontractor."

Enactment of S. 1815 would not have a significant impact upon the budgetary requirements of the Department of Energy.

The Office of Management and Budget has advised that, from the standpoint of the President's program, there is no objection to presentation of this report for the consideration of the Committee.

Sincerely,

J. Michael Farrell
General Counsel